REMARKS

In the Final Office Action[1], the Examiner took the following actions:

rejected claims 1 and 3-8 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication 2006/0294238 A1 to Naik et al. ("Naik") in view of U.S. Patent Application Publication 2004/0225711 A1 to Burnett et al. ("Burnett"), further in view of U.S. Patent 5,784,552 to Bishop et al. ("Bishop").

Applicants have amended claims 1, 3, 5, 6, and 8, and have added new claims 9-11. Claims 4 and 7 have been canceled without prejudice or disclaimer. Claims 1, 3, 5, 6, and 8-11 are currently pending. Support for the amendments and newly added claims can be found at least on page 7, line 24 to page 9, line 8 of Applicants' specification.

As an initial matter, Applicants wish to thank the Examiner for the courtesies extended during the interview with Applicant's representative on December 3, 2008. During the interview, proposed claim amendments were presented, which the Examiner seemed to indicate would overcome the prior art of record. However, the Examiner indicated that further search and consideration of the proposed amendments would be required. Applicants wish to thank the Examiner for acknowledging that the proposed claim amendments appear to overcome the prior art of record. Accordingly, Applicants have amended independent claims 1, 3, and 6 based on the proposed claim amendments. Additionally, during the interview, it was requested that the Examiner

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[1] The Final Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Final Office Action.

contact Applicants' representative if further action will place the application in condition

for allowance, and Applicants thank the Examiner for his agreement to do so.

I. Regarding the rejection of claims 1 and 3-8 under 35 U.S.C. § 103(a) as being unpatentable over <u>Naik</u> in view of <u>Burnett</u> and <u>Bishop</u>

Applicants respectfully traverse the Examiner's rejection of claims 1 and 3-8

under 35 U.S.C. § 103(a) as being unpatentable over <u>Naik</u> in view of <u>Burnett</u> and

<u>Bishop</u>. Claims 4 and 7 have been canceled, rendering their rejection moot.

Furthermore, a *prima facie* case of obviousness has not been established with respect

to claims 1, 3, 5, 6, and 8..

"The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation

of the reason(s) why the claimed invention would have been obvious. . . . [R]ejections

on obviousness cannot be sustained with mere conclusory statements." M.P.E.P.

§ 2142, 8th Ed., Rev. 6 (Sept. 2007) (internal citation and inner quotation omitted). "The

mere fact that references <u>can</u> be combined or modified does not render the resultant

combination obvious unless the results would have been predictable to one of ordinary

skill in the art." M.P.E.P. §2143.01(III) (emphasis in original). "In determining the

differences between the prior art and the claims, the question under 35 U.S.C. 103 is

not whether the differences <u>themselves</u> would have been obvious, but whether the

claimed invention <u>as a whole</u> would have been obvious." M.P.E.P. § 2141.02(I),

(emphasis in original).

"[T]he framework for objective analysis for determining obviousness under 35

U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 U.S.P.Q. 459

(1966). . . . The factual inquiries . . . [include determining the scope and content of the prior art and] . . . [a]scertaining the differences between the claimed invention and the prior art." M.P.E.P. § 2141(II). "Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art." M.P.E.P. § 2141(III).

For example, amended claim 1 recites, among other things, manager services configured to:

> receive an application file containing code for a resource
> providing application, the resource providing application
> enabling the resource on the respective associated
> computer system to be used by a separate computer
> system; [and]

> install the application file onto the respective associated
> computer system, the installation reserving the resource and
> customizing the respective associated computer system to
> modify the behavior of the resource of the respective
> associated computer system.

(emphases added). As discussed during the interview, the prior art, taken alone or in combination, fail to teach or suggest at least these elements of Applicants' claimed invention.

Naik discloses "controlling the participation and performance management of a distributed set of resources in a grid environment. The control is achieved by forecasting the behavior of a group of shared resources, their availability and quality of their performance in the presence of external policies governing their usage, and deciding the suitability of their participation in a grid computation." Naik, Abstract.

Specifically, to select a grid service, "[t]he tGRM takes into account the patterns observed in the service requests arriving from grid clients and grid policies associated

with each type of request. From these, it makes predictions about the type and arrival rates of future requests from grid clients . . . resources are selected based on the quality of resource availability predictions for the appropriate time interval." Naik, ¶ [0068]. Available services are "listed in the Table of Physical Services, (500). Also, listed in this table are weights to be used by the mapping function in determining the actual physical service instance to use for servicing a request. These weights are updated continuously by tGRM using the predictions about the state of the available resource, the resource related policies, the expected demand on the grid services, and the grid polices." Naik, ¶ [0070]. As such, grid services are selected based on predictions of future availability, and the service is selected based on these predictions.

However, there are instances in Naik where a service may be unavailable. "When a new request arrives, GSRP consults the two tables . . . and . . . it decides on the actual physical service instance to use . . . [i]f for some reason, the service instance does not process the request after the request is assigned to it, (e.g., if the underlying resource is withdrawn from participation in the grid computations), GSRP reassigns the request to another physical service instance that provides the same service." Naik, ¶¶ [0071-0072]. There is no reservation system discussed in Naik, as the system must determine a new service to use if the request is not processed.

Furthermore, Naik does not provide any detail as to how the service is set up and provided to satisfy the request. It is simply noted that the request is routed "to the assigned physical service instance after modifying the request so the response is required to the request Router after it is processed." Naik, ¶ [0124]. There is also no discussion in Naik of "install[ing] [an] application file onto the respective associated

computer system, the installation reserving the resource and customizing the respective associated computer system," as recited in amended claim 1.

Naik thus fails to teach at least "receiv[ing] an application file containing code for a resource providing application, the resource providing application enabling the resource on the respective associated computer system to be used by a separate computer system [and] install[ing] the application file onto the respective associated computer system, the installation reserving the resource and customizing the respective associated computer system to modify the behavior of the resource of the respective associated computer system," as recited in amended claim 1. (emphases added).

Burnett and Bishop do not compensate for any of these deficiencies of Naik. Neither Burnett nor Bishop teach or suggest "receiv[ing] an application file containing code for a resource providing application, the resource providing application enabling the resource on the respective associated computer system to be used by a separate computer system [and] install[ing] the application file onto the respective associated computer system, the installation reserving the resource and customizing the respective associated computer system to modify the behavior of the resource of the respective associated computer system," as recited in amended claim 1. (emphases added).

Independent claims 3 and 6 , while of different scope, recites elements similar to those of claim 1, and are thus allowable over Naik in view of Burnett and Bishop for at least reasons similar to those discussed above in regard to claim 1. Claims 5 and 8 are also allowable at least due to their dependence from claims 3 and 6, respectively.

Furthermore, newly added dependent claims 9-11 depends from independent claim 1, and are allowed at least for the reasons set forth in relation to independent

claim 1. Additionally, claims 9-11 recite "waiting a prespecified amount of time and then deinstalling the application file if there is no additional request for the resource." Naik, in view of Burnett and Bishop do not teach or suggest at least the claimed prespecified amount of time, and as such, claims 9-11 are also allowable at least for these reasons.

II. Conclusion

In view of the foregoing, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

If the Examiner believes a telephone conference would be useful in resolving any outstanding issues, the Examiner is invited to call the undersigned at (202) 408-4268.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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GARRETT & DUNNER, L.L.P.

Dated: December 12, 2008   By:_____
                                    Trenton J. Roche
                                    Reg. No. 61,164